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AT&T
Nassau Metals

John S. Williams
General Attorney and Secretary

RECEIVED
CERCLA REMEDIAL ENFORCEMENT SECTION

AUG 11 1988

EPA - Region III

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August 11, 1988

MR. GREGG CRYSTALL, CHIEF
PA CERCLA Remedial Enforcement Section
U.S. EPA Region III
841 Chestnut Building
Philadelphia, PA 19107

Re: C&D Recycling Site: U.S. EPA Dkt. No. III-87-30-DC

Dear Mr. Crystall:

This refers to your letter dated July 6, 1988 received at my office on July 8, 1988 while I was on vacation. Since returning I have reviewed your letter and now have had an opportunity to discuss its contents with my colleagues. We appreciate your efforts to clarify EPA's position on the "additional work tasks" requested of AT&T Nassau Metals (p. 1) and your expression of willingness to work closely with Nassau in the future. Regarding these ends we believe it will be helpful for us to set forth in detail Nassau's position on a number of the matters discussed in your letter.

Notification of Issues Resulting from June 8 Meeting

Our concern regarding the meeting of June 8 was not whether EPA notified us of the points raised by the Concerned Citizens of Foster Township. Our concern was that EPA had already made certain commitments to the Citizens and made certain decisions within EPA to perform additional sampling prior to even discussing these matters with Nassau's technical representatives. We believe that to facilitate achievement of an expeditious and technically sound Remedial Investigation, EPA and Nassau should discuss any plans in regard to the Site that could impact on the RI.

Purpose of June 20 Meeting

We appreciate your acknowledgement that the June 20 meeting was held at Nassau's request. However, Nassau did not ask for the

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meeting "in order to discuss the additional work tasks recognized by EPA as necessary components of a complete and thorough evaluation of the on-site conditions and any potential receptors adjacent to the C&D site." (p. 1)

Rather, Nassau asked for the meeting to discuss its desire to seek, if at all possible, an understanding with EPA that before commitments to perform work in addition to that described in the approved Work Plan, discussion would be held between EPA and Nassau. Obviously, each of us remains free ultimately to take whatever position we believe appropriate, but we believe the prior discussion approach will best facilitate both communication with the citizens and effective and efficient response action at the Site. If we have such an understanding it will make it much easier to assure the presence of our technical representatives at future community or public meetings (p. 1).

Additional Tasks

We take exception to your assertion now that "EPA views these tasks [the five additional work tasks EPA undertook because of the June 8 meeting] as reasonable and technically feasible additions to the Work Plan." (p. 1) Significantly, at our June 20 meeting you told all of us numerous times that there was no technical justification for the well testing listed among these tasks. Accordingly, at least one of these requests is neither reasonable nor valid; and we dispute EPA's right to recover from Nassau EPA's cost of performing the additional task we did not agree to undertake and for which there was no technical rationale. Also, you state that EPA presented the five additional work tasks "for AT&T's consideration in amending the existing" Work Plan (p. 2). But at the meeting on June 20th you advised us that as a result of the meeting on June 8 with the Concerned Citizens, EPA had already decided to undertake those five additional tasks.

Soil Sampling and Volatile Organic Sampling

This will confirm the agreement reached in a telephone conversation between Mr. Larry Elder of AT&T and Ms. Donna McCartney of EPA that if additional soil, surface water, and sediment sampling is needed after the initial round of data has been analyzed and evaluated as provided in the Work Plan, Nassau will conduct further on-Site sampling as needed and as described in your tasks 4 and 5 (p. 2).

As you know the Work Plan for the Remedial Investigation requires the collection of some ninety-six (96) soil samples on the Site. The analyses of these samples should pinpoint any areas of concern at the Site. And, if sufficient soil exists in the areas of concern deeper samples will be collected and analyzed. AR 302214

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Due to past sampling results and the types of operations performed at the Site, we do not see the rationale for volatile organic sampling at this time. Nevertheless, we have agreed to some sampling for volatile organics if additional soil, sediment and surface water sampling is needed based on the results of the initial work.

It was understood that certain residents felt that Lurgan Corporation and/or C & D Recycling performed operations at the Site other than those described in the RI Work Plan. We understand that one of the residents provided EPA with the telephone number of an alleged former employee at the Site who was to identify the location of buried material. It is further understood that EPA talked with this former employee and the employee was not aware of any buried material.

Off-Site Sampling

We take strong exception to your assertions that "it appears nevertheless that you [meaning Nassau] may have prematurely determined that no Site contaminants have migrated or will migrate from the C&D property" and that "making such a determination without collecting samples and evaluating data of sufficient quality is precipitous on AT&T's part."(p. 2).

As you know Nassau actively developed, with EPA and PADER, a comprehensive scope of work in the RI to determine if the Site is a source of organic or inorganic constituents in the soil and groundwater. This scope of work resulted in a program of on-Site and off-Site sampling agreed to by all prior to May 20, 1988. Thus, it can not be said that Nassau made a "preceptious" or "premature determination" regarding the Site. Significantly, it is EPA, not Nassau, that now wishes to make major changes to the scope of the Work Plan without technical justification.

EPA granted full approval of the RI Work Plan on May 20, 1988. To the best of our knowledge no information exists now regarding the Site that did not exist and was not available and known to EPA at the time that EPA approved the Work Plan. No new sampling results have been released since approval; and the charges and complaints of the citizens were well known long prior to May 20, 1988.

Further, let me assure you there is no misunderstanding regarding the "technical rationale" behind EPA's request that Nassau commence quarterly sampling of 15 to 20 residential wells at this time (p. 2). You told us numerous times at the June 20 meeting that there was no technical rationale for the sampling of all these wells. We believe you. And, we believe that the chronology leading up to off-Site sampling program now being demanded by EPA illuminates the rationale for that program:

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- Nassau's preliminary RI Work Plan did not include any sampling of off-Site residential wells. Nassau's plan was to perform a comprehensive investigation of the Site in an expeditious manner.
- At the meeting with EPA and PADER on January 7, 1988 to discuss preliminary comments on the Work Plan EPA informed Nassau that EPA Region III, with limited exceptions, does not approve RI Work Plans unless some residential well sampling is performed.
- On January 13, 1988, EPA notified Nassau of the disapproval of the RI Work Plan. This notice stated, among other things, that "the collection of data from off-site soils and groundwater media must include sampling and a full priority pollutant analysis (HSL) of at least four (4) residential drinking water wells closest to the site property. If contamination from the site is found in those few residential wells, more extensive sampling of the residences will be required."
- At the meeting with EPA and PADER on January 28, 1988 to discuss the comments in the January 13, 1988 letter EPA and Nassau compared respective lists of residential wells that each recommended be included in the sampling program. EPA listed the Clark, Rohrbach, Samuelian (formerly Resnick) and Sulima residences. Nassau listed the Drasher, Rohrbach, Samuelian and Sulima residences. The lists were very similar and Nassau volunteered to sample all five residential wells. EPA accepted.
- At the January 28 meeting the PADER representative became aware that EPA and Nassau had agreed that one round of on-Site and one round of off-Site groundwater sampling would be performed. An extended discussion was had on the potential for seasonal variations in the water quality. The meeting ended with the PADER representative requesting an opportunity to discuss the adequacy of one event sampling with PADER hydrogeologists.
- Subsequent to the meeting on January 28, 1988, it was understood from EPA that PADER was not in full agreement with the one event sampling. Nassau volunteered to perform a second sampling of the on-Site and off-Site wells. We understand that subsequently PADER agreed to the two event sampling. And, EPA and Nassau agreed that on-Site and off-Site sampling should be performed at the same time so that there would be a correlation between the data.
- EPA had a meeting with a small number of the Concerned Citizens of Foster Township in early March 1988 to discuss the RI Work Plan. It is understood that at that

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meeting the Citizens discussed alleged problems in the area and activities which supposedly went on at the Site. Thus if EPA had not been advised in the past of the Citizens concerns EPA became so at that March 1988 meeting.

- When Nassau was obtaining access agreements for the off-Site sampling, one of the residents refused to grant access unless quarterly sampling was performed. EPA was advised of the situation and called the resident; and EPA unilaterally agreed without prior discussion with Nassau that it would perform two additional samplings of the five residential wells. In response to Nassau's concern about EPA making commitments that could impact the RI without prior discussion of them with Nassau, EPA sent a letter to Mr. Larry Elder of AT&T dated March 29, 1988, which included the following two paragraphs regarding the two sampling rounds:

"We would also like to notify you at this time of EPA's plans to conduct two additional rounds of ground water sampling for the five residential wells selected for investigation during the RI at C & D. In an attempt to be responsive to the citizen concern over any potential health effects resulting from the operation of the C & D site, EPA will conduct two additional sampling events of residential wells. These two events will serve to supplement the residential well sampling activities that EPA has requested and approved as part of the RI Work Plan submitted by AT&T and Hart."

"We would like to reiterate that EPA is fully satisfied with the Remedial Investigation activities as they are detailed in the Work Plan submitted by AT&T and Hart. EPA has consented to conduct additional sampling in order to meet the citizen's need for an investigation to determine whether there is any seasonal variation in drinking water quality. Since, at this time, there is no technical justification which would support a need for this sampling to be conducted as part of the C & D Remedial Investigation, the total of four rounds of sampling is not required to be incorporated into the RI Work Plan."

- Also, in a telephone conversation between you and Larry Elder prior to that letter of March 29, you advised that the two rounds of residential sampling would not be included in EPA's oversight costs. Later in your June 29 telephone conversation with Mr. Elder you explained that you meant that Nassau would not be billed at the end of the year but instead would be billed at the end of the RI/FS process. We respectfully dispute EPA's right to be reimbursed and reserve all our rights in this regard.

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We submit that these facts make it abundantly clear that there is no technical rationale for the additional residential well sampling.

Further, you state in your letter dated July 6, 1988 that "EPA has continued to express satisfaction with the Remedial Investigation Work Plan submitted by AT&T and Fred C. Hart for the C&D Recycling Site" and that EPA believes that "this is a technically sound work plan which will characterize the Site and determine the potential for, or existence of, a release of contamination from the site" (p.3). You also now assert that "we do not agree that the present scope of investigation will determine and properly evaluate the full extent of on and off-site contamination, and all potential receptors at and around the Site." (p.3) Your two statements appear to be contradictory.

We hope that EPA's is not trying to use the Consent Order and Work Plan as a vehicle by which to investigate all potential sources of contaminants in the C&D area of Foster Township whether they are from C&D Recycling, abandoned strip mines, an abandoned wood treating plant, or whatever. However, if that is EPA's intent we take exception to it and reserve all our rights in that regard.

Finally, we note your statement that "at some later date AT&T will be requested to pay the cost associated" (p. 3) with the additional well sampling EPA agreed to perform. In line with the foregoing we respectfully dispute EPA's right to be reimbursed for these costs and reserve all our rights in this regard.

Well Sampling Methodology

We agree to provide a written summary or report describing the specifics of the methodology used and problems encountered in the June 1988 well sampling event (p. 3).

Schedule Delays

The anticipated delay to the existing schedule occasioned by EPA's enlargement of the second round of residential well sampling (p. 4) will depend in part on the timing of EPA's off-Site sampling. If the sampling is performed in late October 1988, which would be one month into the fall season, it would delay the start of new well installation and development. If the sampling is performed in early October only one week would be needed for the sampling as you state. It seems, however, that the timing of the sampling may now be dependent on EPA's success in obtaining funding for an over-site contractor.

Further discussions between EPA and Nassau regarding the coordination and timing will be needed and we are willing to

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meet with EPA representatives at their convenience to discuss this matter and will be in touch to this end. As to all additional time needed, we will document any delays resulting from this enlarged sampling program you require and provide that documentation to EPA.

Groundwater Sampling Procedures

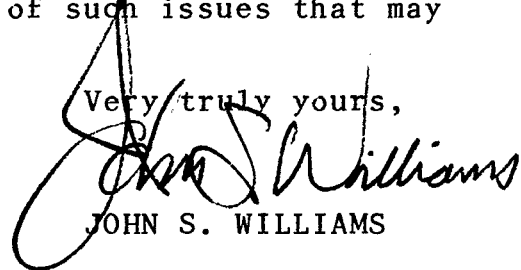
When we left the meeting with EPA on June 20, it was our understanding that EPA had agreed that Nassau would collect unfiltered samples only. We believe that Fred C. Hart Associates, our consultant, has a valid concern in collecting both filtered and unfiltered samples, as it is not clear which data should be used in the RI Report and Endangerment Assessment. Hart's view is that they will be forced to use the results with the highest level of constituents which would inevitably be the unfiltered samples. Thus, what will be done with the filtered sampling data? EPA has not provided us with an answer.

Please note that a couple of the samples in the June sampling of the undeveloped wells were slightly murky and we decided to analyse both the filtered and unfiltered samples for this sampling event. We will make those results available to you in due course.

Future Working Relationship

We welcome your interest in working closely with Nassau regarding the C&D Recycling Site. We believe that by working together we will achieve the common objective: to complete as expeditiously as possible a sound RI/FS that satisfies the real needs of all of the interested parties, the public, EPA, PADER and Nassau. We will do our best to try and achieve that objective in complete cooperation with EPA and its representatives. And we certainly will be most appreciative if EPA will continue to notify us of "any new issues" that may arise which may "impact the integrity" of the RI/FS. (p. 1) Similarly, we pledge to notify EPA of such issues that may first come to our attention.

Very truly yours,



JOHN S. WILLIAMS

Copy to:
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Larry A. Elder

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